

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UBS REAL ESTATE SECURITIES INC.,

Plaintiff,

-against-

SILVER STATE FINANCIAL SERVICES,  
INC. d/b/a SILVER STATE MORTGAGE,

Defendant.

Case No.: 07 Civ. 3702 (MGC)

ECF Case

**DECLARATION OF  
BRIAN BOWES IN SUPPORT  
OF PLAINTIFF UBS REAL  
ESTATE SECURITIES INC.'S  
APPLICATION FOR  
JUDGMENT BY DEFAULT**

BRIAN BOWES hereby declares, under penalty of perjury:

1. I am a Director at plaintiff UBS Real Estate Securities Inc.

("UBS"). I have been employed by UBS since April, 2003. I make this declaration in support of UBS' application (the "Application") for the entry of a default judgment against defendant Silver State Financial Services, Inc. d/b/a Silver State Mortgage ("Silver State"). Unless otherwise indicated, I have personal knowledge of the facts set forth herein.

2. As set forth more fully in the Complaint,<sup>1</sup> on or about May 1, 2005, UBS and Silver State entered into the Purchase Agreement, whereby Silver State agreed to sell, and UBS agreed to purchase, from time to time, certain mortgage loans pursuant to the terms of the Purchase Agreement.

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<sup>1</sup> Each capitalized term used but not defined herein shall have the meaning ascribed to such term in the Declaration of Joel M. Miller, dated October 25, 2007 (the "Miller Decl.") and also submitted in support of the Application.

3. Pursuant to the Purchase Agreement, Silver State agreed to repurchase from UBS, at the contractually specified "Repurchase Price," any mortgage loan purchased by UBS that experienced an early payment default ("EPD").

4. Thirty-four (34) loans purchased by UBS from Silver State experienced early payment defaults (the "EPD Loans"). Silver State failed to honor its contractual obligation under the Purchase Agreement to repurchase those loans.

5. As to eleven (11) of the EPD Loans, UBS did not suffer damages, either because UBS was able to re-sell the loans without a loss or because the borrower was able to, and did, pay the loan in full. As to twenty-three (23) of the EPD Loans, however, UBS did suffer damages from Silver State's breach of contract.

6. UBS' damages consist of the contractual Repurchase Price, as defined in the Complaint, less the actual or estimated proceeds that have been or will be realized from the 23 EPD Loans that Silver State failed to repurchase.

7. Thus, the first step in computing UBS' damages is computing the Repurchase Price for each of the 23 EPD Loans. "Repurchase Price" is defined in the Purchase Agreement as follows:

Repurchase Price: With respect to any Mortgage Loan, a price equal to (i) the greater of (A) the product of the percentage of par stated in the related Purchase Price and Terms Letter or UBS Website and (1) with respect to Mortgage Loans other than UBS Website Mortgage Loans, the Unpaid Principal Balance of such Mortgage Loan as of the date of repurchase or (2) with respect to UBS Website Mortgage Loans, the Stated Principal Balance of such Mortgage Loan as of the date of repurchase, and (B) the Unpaid Principal Balance of the Mortgage Loan, plus (ii) interest on such Unpaid Principal Balance at the related Mortgage Interest Rate from the last date through which

interest was last paid and distributed to the Purchaser to the last day of the month in which such repurchase occurs, plus (iii) reasonable and customary third party expenses incurred in connection with the transfer of the Mortgage Loan being repurchased, plus (iv) any costs and damages incurred in connection with any violation of such Mortgage Loan of any predatory or abusive lending law; less, prior to the related Servicing Transfer Date, amounts received or advanced in respect of such repurchased Mortgage Loan (other than a UBS Website Mortgage Loan) which are being held in the Custodial Account for distribution to Purchaser in the month of repurchase.

8. For purposes relevant to this Application, the Repurchase Price of a loan can be stated as equaling (a) the unpaid principal balance of the loan plus (b) accrued interest, (c) expenses advanced with respect to the loan and (d) the “premium” (or amount over par) that UBS paid Silver State with respect to the loan.

9. I computed the Repurchase Prices of each of the 23 EPD Loans for which UBS seeks damages. That computation is reflected on the Excel spreadsheet attached as Exhibit A. I followed the steps set forth above in making the computation. The column entitled “Unpaid Balance” contains the unpaid principal balances for each of the 23 EPD Loans as to which judgment is sought. The “Accrued Interest” column contains the unpaid accrued interest for those loans through October 19, 2007. The “Corporate Advances” and “Escrow Advances” columns contain the expenses advanced for those loans. Finally, the “Purchase Price” column contains the information necessary for the spreadsheet to compute the premiums for the loans.<sup>2</sup>

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<sup>2</sup> Excel computes the premium by subtracting 1 (which is par) from the Purchase Price and multiplying that fractional result by the Original Balance shown.

10. Thus, the “Repurchase Price” column of Exhibit A correctly states the Repurchase Price of each of the 23 EPD Loans for which UBS seeks damages. From each Repurchase Price, I subtracted the actual or estimated proceeds that have been or will be realized from the EPD Loans that Silver State failed to repurchase. The result is the amounts in the column entitled “Damages.”

11. As shown on Exhibit A, the aggregate of the damages that UBS incurred as of October 19, 2007, was \$2,917,317. UBS requests judgment in this amount, plus interest to date and attorneys’ fees and costs.

12. Interest to date from October 19 is running at the amount of \$719.34 *per diem*. I computed this by multiplying \$2,917,317 by the New York statutory interest rate of 9%, and dividing the result by 365 days.

13. As set forth in the Miller Decl., UBS’ attorneys’ fees and expenses through September 30, 2007 have been \$15,057.39.

14. UBS respectfully requests that this Court enter a judgment by default against Silver State in the total of these amounts:

- Breach of contract damages in the amount of \$2,917,317, computed as set forth above; plus
- Interest from October 19, 2007 to the date of entry of judgment at the per diem rate of \$719.34; plus
- Attorneys’ fees and expenses incurred in connection with this action in the amount of \$15,057.39.

15. No part of the total requested judgment amount has been paid.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 25<sup>th</sup> day of October, 2007

  
Brian Bowes

# EXHIBIT A

UBS LOANID	Original Balance	Unpaid Balance	Per Diem	10/19/2007		Accrued Interest	Corporate Advances	Escrow Advances	Purchase Price	Repurchase Price	Proceeds/Value	Damages	LoanNbr	oldUBSloanid
				Accrued Days Through 10/19/2007	Interest									
334688952	\$204,000.00	\$317,861.75	66.40	80	5,312.21	\$0.00	\$0.00	\$0.00	102.4158%	\$0.00	256,983	0	7700198604	
334375391	\$320,000.00	\$187,871.84	41.82	80	3,345.66	\$0.00	\$39.76	\$0.00	102.7108%	\$196,350.03	151,749	(74,807)	2200111843	
334375425	\$188,000.00	\$243,172.95	45.80	202	9,252.23	\$0.00	\$1,503.04	\$0.00	102.4158%	\$259,802.75	197,010	(62,793)	2200160941	
334688820	\$244,000.00	\$640,000.00	133.70	323	43,184.66	\$156.25	\$0.00	\$504.45	102.7108%	\$700,669.82	524,498	(176,192)	2200090038	
334375448	\$640,000.00	\$199,544.61	35.54	172	6,112.08	\$189.00	\$0.00	\$0.00	102.4491%	\$211,237.09	162,086	(49,151)	2200106479	
334375416	\$200,000.00	\$720,000.00	145.48	261	37,970.14	\$167.50	\$1,138.74	\$0.00	102.7108%	\$778,793.91	585,516	(193,278)	2200103465	
334375417	\$937,500.00	\$937,500.00	224.74	141	31,688.78	\$107.50	\$10,066.43	\$0.00	102.7108%	\$1,004,776.16	759,942	(244,834)	2200082159	
334688962	\$584,000.00	\$307,999.99	138.00	261	36,018.00	\$159.50	\$10,695.40	\$0.00	102.4158%	\$646,418.07	474,663	(171,755)	2200100066	
334375492	\$308,000.00	\$132,000.00	61.18	261	15,967.48	\$167.50	\$2,914.40	\$0.00	102.4491%	\$334,592.44	248,220	(86,372)	2200096086	
334375436	\$132,000.00	\$298,530.31	26.22	292	7,656.00	\$2,900.25	\$952.40	\$0.00	102.7108%	\$147,086.86	107,249	(39,838)	2200106961	
333773352	\$298,650.00	\$378,000.00	75.65	111	8,397.70	\$11.25	\$1,104.00	\$0.00	101.6373%	\$312,930.99	240,274	(72,657)	2200096419	
334688819	\$378,000.00	\$559,798.74	71.20	172	12,246.16	\$7.95	\$703.83	\$0.00	101.7116%	\$397,427.78	301,809	(95,619)	2200163742	
334688947	\$560,000.00	\$336,000.00	113.11	261	29,521.72	\$148.85	\$6,855.76	\$0.00	102.4158%	\$609,848.58	456,629	(153,219)	7700143277	
334688751	\$336,000.00	\$960,000.00	70.19	323	22,671.95	\$2,675.82	\$0.00	\$0.00	102.4158%	\$369,484.79	274,618	(94,847)	2200152609	
334688778	\$960,000.00	\$559,677.80	200.55	323	64,776.99	\$4,368.68	\$13,481.14	\$0.00	102.4158%	\$1,065,818.31	784,623	(281,196)	2200120592	
334870570	\$560,000.00	\$301,200.00	134.17	476	63,864.60	\$537.50	\$15,862.87	\$0.00	101.4600%	\$648,114.07	473,254	(174,860)	7700106235	777019414
334688811	\$301,200.00	\$148,000.00	67.05	323	21,656.49	\$4,156.19	\$1,963.02	\$0.00	102.4158%	\$336,254.03	247,147	(89,107)	2200169277	
334688982	\$148,000.00	\$325,600.00	29.90	323	9,659.03	\$961.90	\$294.64	\$0.00	102.4158%	\$162,490.92	120,724	(41,767)	2200168723	
334375395	\$88,000.00	\$426,431.30				\$0.00	\$0.00	\$0.00	102.7108%	\$334,426.26	268,068	(180,251)		
334375397	\$88,000.00	\$192,000.00				\$0.00	\$0.00	\$0.00	102.4158%	\$90,395.10		0		
334688831	\$426,431.30	\$192,000.00				\$0.00	\$0.00	\$0.00	102.7108%	\$436,732.95		0	2200106297	
334375467	\$192,000.00	\$284,000.00				\$122.50	\$0.00	\$0.00	102.7108%	\$197,327.17		0	2200109483	
334375405	\$284,000.00	\$488,400.00				\$0.00	\$0.00	\$0.00	102.7108%	\$291,698.58	229,041	(123,677)	7700164885	
334375410	\$488,400.00	\$490,800.00				\$111.25	\$367.78	\$0.00	102.7108%	\$502,118.42		0	2200109718	
334688893	\$490,800.00	\$258,400.00				\$0.00	\$0.00	\$0.00	102.4158%	\$264,642.38		0	7700093654	
777018339	\$258,400.00					\$0.00	\$0.00	\$0.00	102.4158%	\$0.00		0	7700192654	
334688807						\$0.00	\$0.00	\$0.00	102.4158%	\$0.00		0	2200150140	
334689007						\$0.00	\$0.00	\$0.00	102.4158%	\$0.00		0	2200163789	
334688770						\$0.00	\$0.00	\$0.00	102.7108%	\$334,098.37	250,117	(83,981)	2200107198	334375390
335045187	\$350,000.00	\$975,000.00	81.51	506	41,242.47	\$0.00	\$574.27	\$0.00	101.3120%	\$396,408.74	298,097	(98,311)	7770168111	777016811
334620743	\$350,000.00	\$975,000.00	217.04	384	83,342.47	\$11,545.35	\$0.00	\$0.00	102.7108%	\$1,096,317.80	812,114	(284,203)	2200108386	

(2,917,317)